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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6045 of 1992

with

SPECIAL CIVIL APPLICATION No 7396 of 1992 to 7412
of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RAJARAM RAM KRISHNA BHATT

Versus

M S UNIVERSITY OF BARODA

Appearance:

MR RG BINIWALA and A.K. PALKAR for Petitioners
MR N.V. ANJARIA FOR MRS. SN SHELAT for Respondent No. 1
MS. B.R. GAJJAR, ASSISTANT GOVERNMENT PLEADER for
respondent No. 2.

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 19/07/96

ORAL JUDGEMENT

This group of petitions is filed by the ex-employees of the M.S. University, Baroda, who had retired prior to 1.4.1982. They are praying for the extension of pensionary benefits to them also irrespective of the cut off date which has been fixed by the respondents for such benefits as 1.4.1982. According to the petitioners, the teaching staff of the same University has been given the pensionary benefits even where they had retired prior to 1.4.1982 because the benefits have been extended to them on the basis of the decision of this Court in the Gujarat State Retired Professors Association, Ahmedabad vs State of Gujarat reported in 32(1) G.L.R. 168 in which reliance was placed on the decision of the Supreme Court in D.S. NAKARA VS. UNION OF INDIA reported in AIR 1983 S.C. 130. Even in the case of teaching staff of the said University earlier these benefits were granted only to those who retired after 1.4.1982 but those orders were modified by the Government Resolution dated 25th April 1991 which is on record at Annexure-X to the petition. The Resolution fixing the cut off date of 1.4.1982 in respect of non-teaching staff at Annexure-IX to the petition has however not been modified on the same lines so far. It appears that the petitioners have not brought this fact to the notice of the respondent authorities. It would therefore be appropriate to direct the respondents to immediately consider the question of fixing the cut off date 1.1.1973 instead of 1.4.1982 even in case of non-teaching staff on the same lines as has been done in respect of the teaching staff of the same University by the Government under the Resolution dated 25.4.1991 at Annexure-X to the petition. In D.S. Nakara's case (supra) the Supreme Court had held that the classification sought to be created between the employees who retired on different dates was wholly arbitrary and violative of Article 14 of the Constitution. This Court in GSRP Association's case (supra) has held that the artificial date between the employees who retired prior to 1.4.1982 and subsequent to that can never be said to be on an intelligible differentia and such classification is arbitrary, irrational and discriminatory. The respondents are therefore directed to consider a copy of this petition which is already served on them as a representation of the petitioners and take a decision in the matter for modifying the cut off date from 1.4.1982 to 1.1.1973 in light of the decision in Gujarat State Retired Professors Association's case (supra) of this

Court and the decision of the Supreme Court in D.S. Nakara's case (supra). The matter will be considered and decided by the respondent authorities within four weeks from the date on which the copy of this order is received by them. It will be open to the petitioners to challenge any adverse orders that may be made against them in accordance with law. All these petitions stand disposed of in light of the above directions. Rule is made absolute accordingly in each of them with no order as to costs.

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